State of Wisconsin
2015 – 2016 LEGISLATURE

LRB–2576/1
PJK:jld

2015 ASSEMBLY BILL 414

October 15, 2015 – Introduced by Representatives JACQUE, MACCO, GENRICH, STEFFEN, ROHRKASTE, BALLWEG, BARNES, BERCEAU, BILLINGS, BORN, BRANDTJEN, BROSTOFF, CONSIDINE, EDMING, GOYKE, HINTZ, JOHNSON, KAHL, KATSMA, KOLSTE, KREMER, KRUG, MASON, MEYERS, MILROY, MURPHY, MURSAU, PETRYK, POPE, QUINN, SARGENT, SINICKI, SKOWRONSKI, SPREITZER, STUCK, SUBECK, THIESFELDT, TITTL, WEATHERSTON and ZEPNICK, cosponsored by Senators LASEE, HANSEN, BEWLEY, HARRIS DODD, LASSA, RINGHAND, RISSER, VINEHOUT, WIRCH and L. TAYLOR. Referred to Committee on Public Benefit Reform.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to repeal*** 49.472 (4) (a) 2m.; ***to renumber and amend*** 49.472 (3) (a) and 49.472 (4) (a) (intro.); ***to amend*** 49.468 (1) (d), 49.468 (1m) (b), 49.468 (2) (b), 49.472 (1) (c), 49.472 (3) (b), 49.472 (3) (f), 49.472 (4) (a) 2. (intro.), 49.472 (4) (a) 3. and 49.472 (5); ***to repeal and recreate*** 49.472 (4) (a) 1. and 49.472 (4) (b); and ***to create*** 46.2896, 49.46 (1) (em), 49.472 (3) (a) 2. and 49.472 (4) (a) 4. of the statutes; **relating to:** eligibility for and premiums under the Medical Assistance purchase plan and disregarding assets in an independence account and retirement benefits for purposes of determining eligibility and cost–sharing requirements under a number of Medical Assistance and long–term care programs.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the Medical Assistance purchase plan (MAPP) and requires the Department of Health Services (DHS) to exclude certain types of assets when determining eligibility and cost–sharing requirements for certain Medical Assistance (MA) and long–term care programs.

Under current law, an individual who would be eligible for MA based on eligibility for supplemental security income (SSI), but who is not eligible for SSI

because he or she is employed and has too much earned and unearned income to be eligible, may pay premiums for coverage under MA if his or her family's net income is less than 250 percent of the poverty line and his or her assets do not exceed $15,000, excluding certain assets. This program is known as MAPP. When determining the value of the individual's assets for continued eligibility under MAPP, DHS excludes amounts in a DHS–approved account that consists solely of savings from the individual's employment after the individual's coverage under MAPP began. These accounts are known as "independence accounts."

This bill makes changes to the eligibility and premium requirements under MAPP. Under current law, when determining whether an individual's net income is less than 250 percent of the poverty line, certain disregards are deducted from the individual's and his or her spouse's total earned income, then the individual's and his or her spouse's total unearned income is added, and then another general disregard is deducted. Under the bill, an individual's net income is determined by subtracting the same disregards as under current law from the individual's total earned and unearned income alone, then the individual's out–of–pocket medical and remedial expenses and long–term care costs, if any, are deducted. In addition, the bill provides that, if an individual whose income is equal to or greater than 250 percent of the poverty line satisfies all of the other eligibility requirements, he or she is eligible for MAPP if DHS determines that his or her earnings are insufficient to replace all of the publicly funded benefits that he or she would be eligible to receive in the absence of those earnings. The bill also requires DHS, when determining eligibility for MAPP, to exclude from assets, to the extent approved by the federal government, income or assets from retirement benefits that accumulated or were earned from employment income or employer contributions while the individual was employed and receiving MA coverage under MAPP.

Premiums for MA coverage under MAPP currently are calculated for an individual by adding together all of the individual's unearned income, after certain specified amounts are deducted, and then adding, in practice, 3 percent of the individual's earned income, although the statutes provide that 3.5 percent of the individual's earned income is to be added. DHS may waive any premiums that are calculated to be below $10 per month, although, in practice, DHS waives any premiums below $25 per month. In addition, the statutes prohibit DHS from assessing a premium to an individual whose earned and unearned income is below 150 percent of the poverty line. Under the bill, an individual whose total earned and unearned income is at least 150 percent of the poverty line for an individual is required to pay a monthly premium equal to 3 percent of the individual's total earned and unearned income, after deducting the same specified amounts that are deducted under current law from an individual's unearned income, with a minimum premium payment of $25. An individual whose total earned and unearned income is less than 150 percent of the poverty line for an individual is required to pay a monthly premium of $25.

Finally, certain other MA and long–term care programs, including Family Care, the long–term support community options program, the community integration program, the self–directed services option program, and the expanded

Medicare buy–in MA program, consider an individual's income and assets when determining eligibility and any cost–sharing requirements. The bill requires DHS to exclude, to the extent approved by the federal government, amounts in an independence account and assets and income from retirement benefits that accumulated or were earned through employment income or employer contributions while an individual was employed and receiving MA coverage under MAPP when DHS determines the individual's eligibility or cost–sharing requirements under any of those MA or long–term care programs.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 46.2896 of the statutes is created to read:

46.2896 Determining financial eligibility and cost sharing for long–term care programs. To the extent approved by the federal government, the department or its designee shall exclude any assets accumulated in a person's independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from employment income or employer contributions while the person was employed and eligible for and receiving medical assistance under s. 49.472 in determining that person's financial eligibility and cost–sharing requirements, if any, for the long–term care program under s. 46.27, 46.275, or 46.277, for the family care benefit under s. 46.286, for the Family Care Partnership program, or for the long–term care program defined in s. 46.2899 (1).

SECTION 2. 49.46 (1) (em) of the statutes is created to read:

49.46 **(1)** (em) For purposes of determining the eligibility and any cost–sharing requirements of an individual under par. (a) 6m., 14., or 14m., (d) 2., or (e), to the extent approved by the federal government, the department shall exclude any assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from employment

income or employer contributions while the individual was employed and eligible for and receiving medical assistance under s. 49.472.

SECTION 3. 49.468 (1) (d) of the statutes is amended to read:

49.468 **(1)** (d) Benefits under par. (b) or (c) are available for an individual who has resources that are equal to or less than 200% of the allowable resources as determined under 42 USC 1381 to 1385, excluding, to the extent approved by the federal government, any assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from income or employer contributions while the individual was employed and eligible for and receiving medical assistance under s. 49.472, and who has income that is equal to or less than 100% of the poverty line.

SECTION 4. 49.468 (1m) (b) of the statutes is amended to read:

49.468 **(1m)** (b) Benefits under par. (a) are available for an individual who has resources that are equal to or less than 200% of the allowable resources determined under 42 USC 1381 to 1385, excluding, to the extent approved by the federal government, any assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from income or employer contributions while the individual was employed and eligible for and receiving medical assistance under s. 49.472, and who has income that is greater than 100% of the poverty line but less than 120% of the poverty line.

SECTION 5. 49.468 (2) (b) of the statutes is amended to read:

49.468 **(2)** (b) Benefits under par. (a) are available for an individual who has resources that are equal to or less than 200% of the allowable resources under 42 USC 1381 to 1385, excluding, to the extent approved by the federal government, any

assets accumulated in an independence account, as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or accumulated from income or employer contributions while the individual was employed and eligible for and receiving medical assistance under s. 49.472, and who has income that is equal to or less than 200% of the poverty line.

SECTION 6. 49.472 (1) (c) of the statutes is amended to read:

49.472 **(1)** (c) "Independence account" means an account approved by the department that consists solely of savings, and dividends or other gains derived from those savings, from income earned from paid employment ~~after the initial date on which~~ while an individual ~~began~~ is receiving medical assistance under this section.

SECTION 7. 49.472 (3) (a) of the statutes is renumbered 49.472 (3) (a) 1. and amended to read:

49.472 **(3)** (a) 1. ~~The~~ Except as provided in subd. 2., the individual's ~~family's~~ total net income is less than ~~250%~~ 250 percent of the poverty line for ~~a family the size of the individual's family~~ an individual. In calculating the net income, the department shall apply all of the exclusions specified under 42 USC 1382a (b), and shall exclude the individual's out–of–pocket medical and remedial expenses and long–term care costs, if any.

SECTION 8. 49.472 (3) (a) 2. of the statutes is created to read:

49.472 **(3)** (a) 2. The individual's total net income equals or exceeds 250 percent of the poverty line for an individual, but the department determines that the individual's earnings are insufficient to replace all of the publicly funded benefits that the individual would be eligible to receive in the absence of those earnings.

SECTION 9. 49.472 (3) (b) of the statutes is amended to read:

49.472 **(3)** (b) The individual's assets do not exceed $15,000. In determining assets, the department may not include assets that are excluded from the resource calculation under 42 USC 1382b (a) ~~or~~; assets accumulated in an independence account; or, to the extent approved by the federal government, income or assets from retirement benefits earned or accumulated from income or employer contributions while the individual was employed and eligible for and receiving medical assistance under this section. The department may exclude, in whole or in part, the value of a vehicle used by the individual for transportation to paid employment.

SECTION 10. 49.472 (3) (f) of the statutes is amended to read:

49.472 **(3)** (f) The individual maintains premium payments calculated ~~by the department~~ in accordance with sub. (4), unless the individual is exempted from premium payments under sub. ~~(4) (b) or~~ (5).

SECTION 11. 49.472 (4) (a) (intro.) of the statutes is renumbered 49.472 (4) (intro.) and amended to read:

49.472 **(4)** PREMIUMS. (intro.) Except as provided in ~~par. (b) and~~ sub. (5), an individual who is eligible for medical assistance under sub. (3) and receives medical assistance shall pay a monthly premium to the department~~. The department shall establish the monthly premiums by rule in accordance with the following guidelines~~, calculated as follows:

SECTION 12. 49.472 (4) (a) 1. of the statutes is repealed and recreated to read:

49.472 **(4)** (a) 1. Except as provided in subds. 3. and 4., an individual whose total net income, as calculated under sub. (3) (a), is equal to or greater than 150 percent of the poverty line for an individual shall pay a premium that is equal to 3 percent of the individual's total earned and unearned income, after the deductions specified in subd. 2.

SECTION 13. 49.472 (4) (a) 2. (intro.) of the statutes is amended to read:

49.472 **(4)** (a) 2. (intro.) In determining an individual's total earned and unearned income for purposes of determining the premium under subd. 1., the department shall disregard all of the following:

SECTION 14. 49.472 (4) (a) 2m. of the statutes is repealed.

SECTION 15. 49.472 (4) (a) 3. of the statutes is amended to read:

49.472 **(4)** (a) 3. ~~The~~ Subject to subd. 4., the department may reduce the premium ~~by 25%~~ determined under subd. 1. by 25 percent for an individual who is covered by private health insurance.

SECTION 16. 49.472 (4) (a) 4. of the statutes is created to read:

49.472 **(4)** (a) 4. An individual's premium under this paragraph may not be less than $25.

SECTION 17. 49.472 (4) (b) of the statutes is repealed and recreated to read:

49.472 **(4)** (b) An individual whose total net income, as calculated under sub. (3) (a), is less than 150 percent of the poverty line for an individual shall pay a premium of $25.

SECTION 18. 49.472 (5) of the statutes is amended to read:

49.472 **(5)** COMMUNITY OPTIONS PARTICIPANTS. From the appropriation under s. 20.435 (7) (bd), the department may pay all or a portion of the monthly premium calculated under sub. (4) ~~(a)~~ for an individual who is a participant in the community options program under s. 46.27 (11).

SECTION 19. Initial applicability.

(1) ELIGIBILITY FOR THE MEDICAL ASSISTANCE PURCHASE PLAN. The treatment of section 49.472 (3) (b) and (f) of the statutes, the renumbering and amendment of section 49.472 (3) (a) of the statutes, and the creation of section 49.472 (3) (a) 2. of

the statutes first apply to individuals who apply for the Medical Assistance purchase plan, or whose continued eligibility for the Medical Assistance purchase plan is reviewed, on the effective date of this subsection.

(2) ELIGIBILITY FOR CERTAIN MEDICAL ASSISTANCE PROGRAMS.

(a) *Long–term care.* The treatment of section 46.2896 of the statutes first applies to individuals who apply for any of the programs listed in section 46.2896 of the statutes, as created by this act, or whose continued eligibility for any of the programs listed in section 46.2896 of the statutes, as created by this act, is reviewed, on the effective date of this paragraph.

(b) *Medical Assistance.* The treatment of section 49.46 (1) (em) of the statutes first applies to individuals who apply for Medical Assistance, or whose continued eligibility for Medical Assistance is reviewed, on the effective date of this paragraph.

(c) *Medicare buy–in.* The treatment of section 49.468 (1) (d), (1m) (b), and (2) (b) of the statutes first applies to individuals who apply for the expanded medicare buy–in program, or whose continued eligibility for the expanded medicare buy–in program is reviewed, on the effective date of this paragraph.

(3) PREMIUMS FOR THE MEDICAL ASSISTANCE PURCHASE PLAN. The treatment of section 49.472 (4) (a) (intro.), 1., 2. (intro.), 2m., 3., and 4. and (b) and (5) of the statutes first applies to premiums for the Medical Assistance purchase plan that are payable on the effective date of this subsection.

(END)